

# **STATUS REPORT ON THE DEPARTMENT'S REVIEW OF THE PROPOSED CRANDON MINING COMPANY MINE: October 1996**

Department of Natural Resources  
Box 7921, Madison, WI 53707  
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**Introduction:** Since our last status report in July, we have received the revised groundwater flow modeling report from the Crandon Mining Company. This report is the culmination of our detailed discussions on the groundwater flow model, which started in early 1994. Many revisions have been made to this version of the flow model. The company has provided us with the model inputs and we are also running the flow model, verifying its predictions and checking the assumptions that were a part of its development. The flow model outputs will be useful to us in our evaluation of impacts to the project area lakes, streams, springs and wetlands and the associated wildlife, fish and aquatic life.

The revised flow modeling report is part of the company's environmental impact report, and along with other documents from the company, are available for public review at Department offices in Rhinelander and Madison and in local libraries in Antigo, Green Bay, Crandon, Madison, Milwaukee, Rhinelander, Tomahawk, Washburn and Wausau and also at the University of Wisconsin library in Stevens Point and at the UW Engineering Library (Kurt Wendt Library) in Madison. In addition, the same documents have been provided to the affected tribes, federal and state agencies and local municipalities.

Because of the Department's ongoing review of this project, we welcome comments on these materials at any time, although the formal comment period will occur after we release the draft environmental impact statement (EIS) next spring.

**Letter from the Secretary:** The following letter dated July 13, 1996, was sent to State Senator Robert L. Cowles by Department Secretary George E. Meyer in response to questions about our regulatory authority for the proposed Crandon Mine. The letter is reproduced in its entirety below.

SUBJECT: Department of Natural Resources' Responsibilities in Reviewing Applications to Mine

Dear Senator Cowles:

You have asked me whether the Department has the ability to prohibit the Crandon Mining Company from proceeding with its proposed mine if non-correctable environmental problems are identified through the permitting and Environmental Impact Statement processes. The answer is an unequivocal yes. Before I address the applicable laws and regulations that make this answer easy, I would like to say something about the Department's attitude toward mining.

First, as I have stated on numerous occasions, I am personally committed to a fair, open application of the state's environmental laws to the Crandon proposal. If it meets the standards set out in state law, the mine should be permitted. If it cannot meet those requirements, the mine must be prohibited. That is the clear will of our elected representatives, and that is the charge under which this agency operates.

Second, staff who have been assigned to work on this project have been directed to review their portion of the project as they would any other project; they are to make their professional judgments based on merit, not on the fact that the application is for a controversial mine. And, as was stated in the Department's response to comments received at the May 20th meeting in Tomahawk, Department staff know that each and every one of their conclusions will be subject to questioning at the trial-like master hearing which will occur prior to Crandon Mining Company receiving any of the requisite permits.

Let me stress: every Department employee who has had a meaningful role in the review of the project will be made available for questioning at that hearing. Department employees involved in the review of this project, which number several dozen, have been apprised that they will be asked how they arrived at their conclusions, whether they have been improperly influenced in their decisions and whether they are professionally comfortable with the judgments associated with their portion of the project review. All such testimony will be under oath and subject to cross-examination.

Now I will discuss why the Department has the clear ability to preclude a mine that is environmentally unacceptable. The starting point in this analysis is in this provision in the state statutes dealing with mining:

**144.937 Effect of other statutes.** If there is a standard under other state or federal statutes or rules which specifically regulates in whole an activity also regulated under [the mining law] the other state or federal statutes or rules shall be the controlling standard. If the other state or federal statute or rule only specifically regulates the activity in part, it shall only be controlling as to that part.

Simply stated, this provision requires that air emissions from the mine would be regulated by the state and federal air pollution laws and rules, not a law applicable only to mining. Similarly, a discharge of wastewater, be it to the Wisconsin River or the Wolf River basin, is regulated by the very same state and federal laws that apply to all industrial and municipal discharges--there are no special provisions applicable to discharges from mines. Disposal of tailings is regulated by the solid waste disposal laws, not the mining laws. The same is true for groundwater withdrawals, stream diversions and other activities the state and federal governments have deemed to be in need of regulation.

My point is simple. No one has argued, to the best of my knowledge, that this state is powerless to prohibit unacceptable impacts to our resources. If air or wastewater discharges

do not meet the applicable standards, they must be better treated or be discontinued. The same is true for other state regulated environmental consequences. And the legislative directive quoted above makes clear that a mine is subject to the majority of environmental requirements that apply to other activities in the state.

There are two exceptions to this principle worth noting. One, mines are subject to different wetland standards than are other projects in the state. This is due to two factors. First, the Legislature made mines subject to wetland restrictions prior to similar regulations being made applicable to other activities. Second, it was recognized that mines are located where ore exists--there is not the ability to relocate the project to another location. The restrictions which were adopted by the Legislature require minimum disturbance of wetlands.

The second difference is that the groundwater pollution statute applicable to mines is different from that applicable to all other state activities. Again, the groundwater statute applicable to mines was passed by the Legislature before a similar, but slightly different, statute was passed applicable to other activities. And, as the Department has testified at several legislative hearings, the application of the two laws is functionally the same.

Finally, I should point out several provisions of the state statutes that do apply specifically to mining projects. Section 144.85 of the Wisconsin Statutes specifically precludes the Department from issuing the requisite permits unless it finds that the "proposed operation will comply with all applicable air, groundwater, surface water and solid and hazardous waste management laws and regulations of the department" and "will not endanger public health, safety or welfare." This serves as a safe-guard that any activity special to mining must meet the same environmental requirements.

In addition to the arsenal available to the Department for all other regulated activities, for an operating mine, section 144.91 of the Wisconsin Statutes states "the department may issue a stop order to an operator, requiring immediate cessation of mining, in whole or in part, at any time the department determines that the continuance of mining constitutes an immediate and substantial threat to public health and safety or the environment."

For the reason set out above, I am confident that any mine proposed in this state cannot obtain approval until a demonstration has been made that it will be environmentally safe, which demonstration needs to be at least as rigorous as would be required of any other type of project. Furthermore, if an environmental problem is identified after a mine has been approved and is operating, more than adequate authority has been provided to the

Department by the Legislature to cause the mine to cease operations and correct the problem.

Sincerely,

(signed)

George E. Meyer  
Secretary

**Revisions to the Mining Rules:** In July, several legislators petitioned the Natural Resources Board requesting that the mining rules be revised to require a mining applicant to obtain insurance to cover costs of remedial actions in the case of potential spills, accidents or other unanticipated releases. In addition, the petition asked for a review of the adequacy of the groundwater protection rule regarding the compliance boundary distance of 1,200 feet and a revision to the groundwater rules if the review found the distance inadequate.

The Department does not believe we have the authority to write a rule requiring additional insurance as specifically requested. However, we have proposed to write a rule addressing the intent of the petition. The additional protection for mining projects would be in the form of an irrevocable trust fund or similar mechanism, which the applicant would have to establish and fund before mining could begin. The amount of the fund would be set initially to cover costs of remedial actions in the event of unanticipated occurrences of environmental contamination resulting from the project. While a mining company is liable forever for environmental problems, the fund would provide a guaranteed backup source of funding.

Department staff are evaluating the compliance boundary distance and reviewing our regulatory authority for protecting groundwater at mining sites. Any proposed changes to the groundwater rules, along with proposed rules for additional financial surety requirements, will be drafted and presented to the Natural Resources Board for review. The Department intends to request permission from the Board in December to hold public hearings on the draft rules early next year.

Before adopting administrative rules on mining, the Department must consult with the metallic mining council. This council (see s. 15.347(12), Wisconsin statutes) created in the Department of Natural Resources, consists of nine persons "...representing a variety and balance of economic, scientific and environmental viewpoints." Council members are being appointed now, and the newly appointed council members will review the proposed rules before adoption. We will report further on the rule making process as it develops.

**Development of the GIS for Crandon Project Permit Review:** Department Geographic Information System (GIS) specialists continue to make progress in developing a GIS for visually displaying and analyzing potential mine impacts. Currently, staff are documenting the format, geographical accuracy, and other characteristics of the resource data that will be tied to an

electronic base map. They are also developing standards to be used in gathering any additional data that may be obtained, and for sharing data among agencies, organizations and individuals.

System design and conversion of some data into a format that will be compatible with the GIS is scheduled to begin shortly. Design of the GIS will take into account the widely varying needs of DNR staff in regulatory programs with a wide diversity of data analysis needs. The automated system is scheduled to be operational around the first of next year.

**Environmental Consultant:** The Department recently hired Dr. Steve Crouch, a professor of mining engineering from the University of Minnesota, as a technical consultant. Dr. Crouch will review the existing studies on the crown pillar (the zone of rock at the top of the ore body that will not be removed) and on the potential for earth subsidence during and after underground mining. We will incorporate the analyses of Dr. Crouch into our environmental impact statement and mine permit review.

**Wisconsin River Sampling:** This summer Department staff sampled fish populations in the Wisconsin River below the proposed wastewater discharge. The area surveyed included a variety of different aquatic habitat types in a several mile stretch downstream from the Hat Rapids dam. The survey was designed to sample for common species as well as look for threatened and endangered species.

**Air Quality Impact Analyses:** Department staff are evaluating the impacts of the proposed construction and operation of the mine on air quality in the project site and vicinity. They are including in their evaluation construction impacts such as fugitive dust releases, earth moving activities, diesel exhaust and other air emissions. During the operation period, there would be underground mining activity such as blasting, ore handling and crushing. Diesel equipment, mine air heating and surface disposal of tailings also could have an impact on air quality. In addition, the Department will provide an estimate of the amount of particle (dust) deposition and the resultant impacts in the surrounding area resulting from project implementation.

**Questions and Answers about the Proposed Project:** Here are several "popular" questions received by the Department in the past several months:

Question: *Is the Department on a fast-track schedule for preparing and releasing its environmental impact statement?*

Response: Our schedule for releasing the draft environmental impact statement is driven by the availability of information on the proposed project and completion of the necessary evaluations, not by any artificial schedule. While we periodically provide a schedule for convenience purposes, it is only for understanding the approximate duration of our environmental and permit review processes. We will not release a draft environmental impact statement until we have all of the necessary information.

*Question: The lower Wisconsin River from Prairie du Sac downstream to the Mississippi River is classified as exceptional resource water. Would the proposed upstream discharge change the background water quality of this area?*

Response: The lower Wisconsin River is more than 200 river miles downstream from the proposed discharge. We would set strict effluent limits that the company would have to meet to protect the aquatic resources and uses of the river at the discharge point. Based on those effluent limits, the background water quality of the river and the amount of dilution, it would be impossible to detect any changes in water quality in the lower Wisconsin River resulting from the proposed wastewater discharge. The effluent limits were calculated using the low flow in the Wisconsin River and the highest discharge rate. The very small increases in concentrations of pollutants would not be measurable or detectable by any analytical methods available. This conservative analysis does not consider natural attenuation mechanisms, such as settling, chemical change or evaporation, which would act to further reduce the concentration of some pollutants in the water. Our draft environmental impact statement will document our complete analysis of the impacts to the Wisconsin River.

**Mining Information Sheets:** A number of mining information sheets are available from Department offices in Rhinelander and Madison. These are prepared by the Department of Natural Resources to explain how mining in Wisconsin is regulated and to explore other aspects of metallic mining. Copies of the following mining information sheets are available:

- Potential Mining Development in Northern Wisconsin
- Cumulative Impacts of Mining Development in Northern Wisconsin
- How a Mine is Permitted
- Protecting Groundwater at Mining Sites
- Local Decisions in Mining Projects
- Wisconsin's Net Proceeds Tax on Mining and Distribution of Funds to Municipalities
- Reclamation and Long-Term Care Requirements for Mine Sites in Wisconsin

We also have copies of "Public Concerns Regarding the Proposed Crandon Mine Discharge into the Wisconsin River."

**For Further Information on the Department's Review of the Crandon Project Contact:**

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